

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 5428 of 1996

For Approval and Signature:

Hon'ble MR.JUSTICE N.N.MATHUR

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1. Whether Reporters of Local Papers may be allowed to see the judgements?
  2. To be referred to the Reporter or not?
  3. Whether Their Lordships wish to see the fair copy of the judgement?
  4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder?
  5. Whether it is to be circulated to the Civil Judge?

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MAGANJI SHANJI ALIAS CHANAJI THAKOR

Versus

STATE OF GUJARAT

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Appearance:

MR MUKESH R SHAH for Petitioner

GOVERNMENT PLEADER for Respondent No. 1

Shri Kamal M. Mehta, AGP for the respondents

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CORAM : MR.JUSTICE N.N.MATHUR

Date of decision: 05/11/96

ORAL JUDGEMENT

By way of this Special Civil Application under Article 226 of the Constitution of India the petitioner challenges the order of detention dated 29.6.1996 passed by the respondent- Commissioner of Police, Ahmedabad City. It is alleged that the petitioner is a bootlegger within the meaning of section 2 (b) of the Gujarat Prevention of Anti Social Activities Act, 1985 (hereinafter referred to as "the PASA Act") and his activities had adversely affected the maintenance of

public order. Five cases pertaining to offences under the provisions of Bombay Prohibition Act, 1949 are said to have been registered against him.

2. This Court by order dated 24.7.1996 made rule returnable on 30.8.1996. The respondents have not filed any reply. However, this application is being opposed by Shri Kamal Mehta, learned AGP.

3. I have gone through the petition and the material on record with the assistance of the learned counsel for the parties. There is nothing to indicate that the activities of the petitioner as a bootlegger has in any way adversely affected the maintenance of public order. Thus, following the law laid by the Apex Court in Piyush Kantilal Mehta v. Commissioner of Police, Ahmedabad City and another, A.I.R. 1989 SC 491, the detention of the petitioner cannot be said to be sustainable.

4. In view of the aforesaid, the Special Civil Application is allowed and the order of detention dated 29th June 1996 is quashed and set aside. The petitioner is directed to be released forthwith, if he is not required in any other case. Rule is made absolute.

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